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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,742	09/19/2005	Josef Beck	19017	7036
272 7590 07/27/2007 SCULLY, SCOTT, MURPHY & PRESSER, P.C. 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			EXAMINER LOPEZ, FRANK D	
			ART UNIT 3745	PAPER NUMBER
			MAIL DATE 07/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,742

Applicant(s)

BECK, JOSEF

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/19/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Specification

The disclosure is objected to because of the following: in the abstract and throughout the specification (e.g. page 1 line 26-27 the spring is labeled as a tension spring, but is actually a compression spring. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claims 1-21 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 6 “the member” has no antecedent basis. In claim 1 line 8 and throughout the claims “tension spring” is wrong (see discussion of objection to the specification).

In claim 2 line 3 “a tension spring” is confusing, since there appears to be only one spring, and so should refer back to the spring of claim 1 line 8.

In claim 16 line 2 “at least one of the two surface enlargements” is confusing since only one of the enlargements have been claimed.

In claims 7 and 19 line 4, claim 10 line 2 and claim 20 line 2 “the bearing surface” claims 7 and 20 line 4, claim 10 line 3 and claim 19 line 4-5 “the end face of a (the) basic member” and claims 7 and 19 line 5, claim 10 line 2-3 and claim 20 3 “the end face of the surface enlargement” have no antecedent basis.

Claim 21 is confusing, because it is not a complete sentence.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 10 and 13-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kristensen et al. Kristensen et al discloses an axial piston machine comprising a plurality of pistons (6) movably guided in respective plurality of axial cylinder bores of a cylinder drum (4), surrounding a central recess; guide shoes (7), connected to each respective piston, is supported by a swash plate (8) and guided in recesses of a return plate (9); a member (10), in a central internal bore of the return plate, is axially biased by a spring (18), through a plurality of pressure pins (14, column 6 line 3-5), where the pressure pin has a planer surface enlargement (formed by 15), radially to its longitudinal axis, at its end facing the return plate; wherein a drive shaft (3) is splined to the central recess, and the pins are guided through the splines.

Claims 1, 10 and 13 are rejected under 35 U.S.C. § 102(b) as being anticipated by Nagatomo. Nagatomo discloses an axial piston machine comprising a plurality of pistons (5) movably guided in respective plurality of axial cylinder bores (4) of a cylinder drum (2), surrounding a central recess; guide shoes (8), connected to each respective piston, is supported by a swash plate (7) and guided in recesses of a return plate (10); a member (14), in a central internal bore (17) of the return plate, is axially biased by respective springs, through a plurality of pressure pins, where the pressure pin has a planer surface enlargement, radially to its longitudinal axis, at its end facing the return plate.

Claims 17-21 and are rejected under 35 U.S.C. § 102(b) as being anticipated by Weber. Weber discloses a pin comprising two planer surface enlargements (14, 16) at opposite ends of a basic member (12), with a retaining hook (22, 28) projecting from and perpendicular to each enlargement.

Conclusion

Claims 2-9, 11, 12 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:00 AM -4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

/F. Daniel Lopez/

F. Daniel Lopez
Primary Examiner
Art Unit 3745
July 23, 2007